

AMENDED IN SENATE JUNE 26, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2676

**Introduced by ~~Committee on Labor and Employment~~ (Assembly
Members ~~Swanson (Chair), Alejo, Allen, Furutani, and Yamada)~~
*Assembly Member Charles Calderon***

March 5, 2012

An act to ~~amend~~ *add* Section ~~1095~~ of 388 to the Unemployment Insurance Penal Code, relating to ~~unemployment compensation~~
agricultural employee safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 2676, as amended, ~~Committee on Labor and Employment~~ Charles Calderon. ~~Unemployment insurance: use of information. Agricultural employee safety.~~

Existing law permits the Occupational Safety and Health Standards Board within the Department of Industrial Relations to adopt occupational health and safety standards to protect the welfare of employees, and existing regulations provide for the prevention of heat-related illness of employees, as prescribed. Under existing law, it is a misdemeanor for an employer to violate a safety standard if the violation has a substantial probability of resulting in death or serious physical harm.

This bill would make it a crime for any person who directs an agricultural employee to perform, or supervises an agricultural employee in the performance of, outdoor work without providing the employee with shade and potable water, punishable by imprisonment not exceeding 6 months in a county jail, by a fine not exceeding \$10,000, or by both the imprisonment and fine, or if that violation results in

injury to an agricultural employee, by imprisonment not exceeding one year in a county jail, by a fine not exceeding \$25,000, or by both that fine and imprisonment. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, the information obtained in the administration of the Unemployment Insurance Law is for the exclusive use and information of the Director of Employment Development in the discharge of his or her duties and is not open to the public. However, existing law requires the director to permit the use of the specified information for specified purposes, and allows the director to require reimbursement for direct costs incurred. Existing law provides that a person who knowingly accesses, uses, or discloses this confidential information without authorization is guilty of a misdemeanor.~~

~~This bill would require the director to provide the Agricultural Labor Relations Board with information for use in the investigation or enforcement of the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act. By providing this information to the Agricultural Labor Relations Board, this bill would expand the crime related to the unauthorized disclosure of this information, and impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 388 is added to the Penal Code, to read:
- 2 388. (a) This section shall be known as the Humane Treatment
- 3 of Farm Workers Act.

1 **(b)** Any person who directs an agricultural employee to perform,
2 or supervises an agricultural employee in the performance of,
3 outdoor work without providing the employee with both continuous,
4 ready access to an area of shade sufficient to allow the body to
5 cool, and potable water that is suitably cool and available in
6 quantities sufficient to allow the employee to drink one quart of
7 water per hour throughout the employee's work shift is guilty of
8 a misdemeanor.

9 **(c)** A violation of this section is punishable by imprisonment in
10 a county jail not exceeding six months, or by a fine not exceeding
11 \$10,000, or by both that imprisonment and fine. If the violation
12 results in injury to an agricultural employee, then the offense shall
13 be punishable by imprisonment in a county jail not exceeding one
14 year, by a fine not exceeding \$25,000, or by both that fine and
15 imprisonment.

16 **(d)** Nothing in this section shall preclude prosecution under any
17 other law.

18 **SEC. 2.** No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27
28
29 **All matter omitted in this version of the bill**
30 **appears in the bill as introduced in the**
31 **Assembly, March 5, 2012. (JR11)**
32